

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference sc030396WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/006450	International filing date (day/month/year) 16.06.2004	Priority date (day/month/year) 18.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant ESPERA-WERKE GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-6 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-5 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>2, 3</u>	YES
	Claims	<u>1, 4-5</u>	NO
Inventive step (IS)	Claims	<u>2, 3</u>	YES
	Claims	<u>1, 4-5</u>	NO
Industrial applicability (IA)	Claims	<u>1-5</u>	YES
	Claims	<u></u>	NO
2. Citations and explanations (Rule 70.7)			
1. This report refers to the following document:			
D1: EP 0 738 606 A (SEIKO INSTR INC), 23 October 1996 (1996-10-23)			
2. <u>INDEPENDENT CLAIM 1</u>			
<p>The application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)). Document D1 discloses the following (the references in parentheses are to D1):</p> <p>A printing machine, <i>suitable</i> for printing sheet elements made of a face material, which are serially fed to the printing machine, more particularly goods labels made of thermosensitive paper or paper substitutes, with a feeder device for feeding the sheet elements to a print head (2) that strikes the sheet elements and has a thermal strip flexibly supported (see spring 9 in figures 1A, 1B and 1C) by a support device in such a way as to form a platen surface between the thermal strip and the sheet element with a predefined surface pressure on the sheet element that is to be printed,</p>			

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wherein

the thermal strip is associated with adapter means (6) which can be exchanged together with it (column 3, line 41 ff.: *"the printhead 2 comprises a head-supporting body 6 on which a thermal element ... is mounted"*; column 3, line 43 f.: *"the printhead can be ... exchanged with ease"*; column 5, line 4 f.: *"the printhead can be made by pressing uniformly in contact with the cylindrical body"*), and which makes it possible to adjust the deflection of the flexible mounting (9) for the thermal strip so that there is a constant surface pressure irrespective of the width of the thermal strip (*the known printer can of course be fitted with a different thermal strip and different adapter means, and if the adapter means is designed accordingly - for example, with a particular thickness - it is also possible to achieve a particular surface pressure*).

The following additional remarks can be made with regard to the technical features specified in the characterising part of claim 1:

Claim 1 is a device claim defining a printing machine that comprises a single thermal strip and a single adapter means. These features are already known from document D1 (in figures 1A to 1C, the known element 6 is apparently used to adjust the locally acting pressure against the elongate thermal print head; the aim in D1 is to make the print head press uniformly in contact with the platen (column 2, lines 49 to 51)).

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The purpose of the adapter means according to the definition in claim 1 of the present application is to make the deflection of the flexible mounting "adjustable" in a specified way. In other words, the adapter means in the printing machine of claim 1 simply has the "potential" (or ability) within it (other types of adapter means and differently shaped thermal strips are not part of the claimed printing machine). Having such "potential" does not make the claimed device (a printing machine) novel over the prior art, because it would also be possible to substitute the known adapter means (complete with print head) (column 3, line 43 f., and figures 1A to 1C), and then, depending on the width of the thermal strip (of the print head), a different adapter means (optionally connected to the print head) could also be used.

Thus the term "adjustable" in this device claim simply specifies that the adapter means in the printing machine is suitable for adjusting the deflection by a desired amount. This is nothing new in relation to the prior art. The assessment would have been different if claim 1 had been directed to a "method for printing" and had included, in addition to other features (more particularly, different thermal strips adapted to the width of the sheet elements to which labels are to be applied), a method step relating to the exchanging of the adapter means together with the thermal strip (see page 3 of the description, second paragraph).

3. DEPENDENT CLAIMS 4 AND 5

Claims 4 and 5 do not contain any features that meet

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the PCT requirements in respect of novelty or inventive step when combined with the features of the back-referenced claim 1. The definition of the thickness or length of the adapter means as "proportional to the width of the thermal strip" is too general to delimit the invention with respect to the prior art.

4. DEPENDENT CLAIMS 2 AND 3

The combination of features in dependent claim 2 is neither known from nor suggested by the available prior art. The reasons for this are as follows:

The known adapter means is an element that exerts a pressing force on the thermal strip along its entire length. It exerts force because it in turn is subject to force from a resilient mounting consisting of a spring element, via a pressure element. Neither D1 nor any of the other documents cited in the search report makes any mention of an actuator for controlling the deflection of the mounting element, as claimed in claim 2. The claimed solution provides an effective and highly controlled way to adjust the surface pressure exerted by the thermal strip on the sheet elements that are to be printed.

The subject matter of claim 2 and claim 3 (which is dependent on claim 2) therefore meets the requirements of novelty and inventive step (PCT Article 33(2) and (3)).